

Appln No. 10/660,452
Amdt date February 19, 2008
Reply to Office action of October 17, 2007

REMARKS/ARGUMENTS

Claims 1-10, 14-17 and 19-29 are pending in the application, of which claims 1-6, 9, 10, and 21-27 have been withdrawn.

Claims 7, 8, 14, 19, 20, 28 and 29 have been rejected under 35 U.S.C. 102 (e) over Ferree, et al., (US 7,235,102) via US Provisional Appln. No. 60/379,462. Applicants have amended claim 7 to recite "an annular intermediate elastic body between and separating the upper and lower bodies." In contrast, Ferree, et al., does not teach or suggest an annular intermediate elastic body as recited in claim 7.

In rejecting claim 7, the Examiner states on page 2 of the Office action that FIG. 4B of Ferree, et al., and FIG. 1C of Provisional Appln. No. 60/379,462 show an intermediate elastic body. FIG. 4B of Ferree, et al., shows the space between an upper piston and a lower piston of the prosthesis to be filled with hydrogel. The hydrogel is then diffused into channels in the upper and lower pistons with the movement of the pistons. (*See Ferree, et al., col. 4, lines 56-62 and col. 5, lines 4-14*). Provisional Appln. No. 60/379,462 additionally shows in FIG. 1C that water permeable membranes can be placed between the hydrogel and the pistons so that only the water contained in the hydrogel is diffused into the channels. (*See Provisional Appln. No. 60/379,462, page 2*). However, Applicants have amended claim 1 to recite "an annular intermediate elastic body between and separating the upper and lower bodies." Applicants submit that Ferree, et al., and Provisional Appln. No. 60/379,462 fail to teach or suggest that the hydrogel between the pistons or any of the water permeable membranes is an "annular intermediate elastic body" as recited in claim 7. Therefore, Applicants believe that claim 7, and dependent claims 8, 14, 19, 20, 28 and 29 are patentable over Ferree, et al.

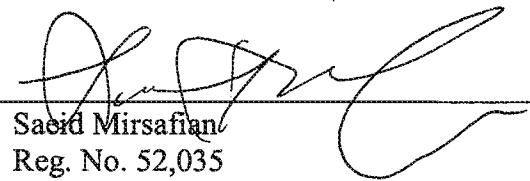
The Examiner has indicated that claims 15 and 16 would be allowable if rewritten in independent form. Applicants have amended claim 15 to place the claim in independent form by including the limitations of claim 7.

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Applicants believe that claims 7, 8, 14-16, 19, 20, 28 and 29 are now in condition for allowance.

Respectfully submitted,
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